



Revised 03/06 WDNV

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

FORM TO BE USED IN FILING A CIVIL COMPLAINT IN FEDERAL COURT  
(Non-Prisoner Context)

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1. CAPTION OF ACTION

**17 CV 6535 FPG**

A. **Full Name of Plaintiff:** NOTE: *If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application or the only plaintiff to be considered will be the plaintiff who filed an application.*

James Nelson

-VS-

B. **Full Name(s) of Defendant(s)** NOTE: *Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. Add a separate sheet, if necessary.*

- |                                  |                                 |
|----------------------------------|---------------------------------|
| 1. <u>Mr Greg Marsh</u>          | 4. <u>Everest Inst</u>          |
| 2. <u>Mrs Mayteg Cruz-Santos</u> | 5. <u>Mrs Katharina Wheeler</u> |
| 3. <u>Mrs Eva Wilcox</u>         | 6. _____                        |

2. STATEMENT OF JURISDICTION, VENUE and NATURE OF SUIT

*All of these sections **MUST** be answered*

*Identify the basis for federal Court jurisdiction over your claim, such as that the United States government is a party to the action, all the parties reside in different states and therefore you claim diversity jurisdiction, or the claim presents a federal question or arises under federal law.*

A. **Basis of Jurisdiction in Federal Court:** Federal government charged Everest with Fraud & Predatory practices.

*State why the Western District of New York is the proper venue for this action, such as that your claim arises in or the defendant resides in the 17 westernmost counties of New York State.*

B. **Reason for Venue in the Western District:** Everest cases in California, owner, attorney General, and New York.

*Identify the nature of this action, such as that it is a civil rights claim, a personal injury or personal property (tort) claim, a property rights claim, or whatever it is.*

C. **Nature of Suit:** I made claim against Everest in Rochester with investigator (Harter Secrest and Emery) against Everest for fraud, misrepresentation before IRS (feds).

**3. PARTIES TO THIS ACTION**

**PLAINTIFF'S INFORMATION** NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name of First Plaintiff: James Nelson

Present Address: 281 Clay ave # 1 (Dwn)  
Rochester N.Y. 14613

Name of Second Plaintiff: \_\_\_\_\_

Present Address: \_\_\_\_\_

**DEFENDANT'S INFORMATION** NOTE: To list additional defendants, use this format on another sheet of paper.

Name of First Defendant: MR. Greg Marsh

Official Position of Defendant (if relevant): Veteran Rep

Address of Defendant: Everest Institute 1630 Portland ave  
Rochester N.Y. 14621

Name of Second Defendant: Mrs Mayteg Cruz - Santos

Official Position of Defendant (if relevant): Financial Aid Rep

Address of Defendant: Everest Institute 1630 Portland ave  
Rochester N.Y. 14621

Name of Third Defendant: Mrs Eva Wilcox

Official Position of Defendant (if relevant): Dean

Address of Defendant: Everest Inst 1630 Portland ave  
Rochester N.Y. 14621

**4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT**

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes \_\_\_\_\_ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

2. Court (if federal court, name the district; if state court, name the county): \_\_\_\_\_

3. Docket or Index Number: \_\_\_\_\_

4. Name of Judge to whom case was assigned: \_\_\_\_\_

5. The approximate date the action was filed: \_\_\_\_\_

6. What was the disposition of the case?

Is it still pending? Yes\_\_\_\_ No\_\_\_\_

If not, give the approximate date it was resolved. \_\_\_\_\_

Disposition (check those statements which apply):

\_\_\_\_ Dismissed (check the statement which indicates why it was dismissed):

\_\_\_\_ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

\_\_\_\_ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

\_\_\_\_ By court due to your voluntary withdrawal of claim;

\_\_\_\_ Judgment upon motion or after trial entered for

\_\_\_\_ plaintiff

\_\_\_\_ defendant.

## 5. STATEMENT OF CLAIM

**Please note** that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, just tell the story of what happened and do not use legal jargon.

**Fed.R.Civ.P. 8(a)** states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

**Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

**A. FIRST CLAIM:** On (date of the incident) \_\_\_\_\_,  
defendant (give the name and (if relevant) the position held of each defendant involved in this incident) \_\_\_\_\_

did the following to me (briefly state what each defendant named above did): \_\_\_\_\_

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The federal basis for this claim is: \_\_\_\_\_

State briefly exactly what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes:*

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**B. SECOND CLAIM:** On (date of the incident) \_\_\_\_\_,  
defendant (give the name and (if relevant) position held of each defendant involved in this incident) \_\_\_\_\_

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did the following to me (briefly state what each defendant named above did): \_\_\_\_\_

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The federal basis for this claim is: \_\_\_\_\_

State briefly exactly what you want the Court to do for you. *Make no legal arguments and cite no cases or statutes:*

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**If you have additional claims, use the above format to set them out on additional sheets of paper.**

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**6. SUMMARY OF RELIEF SOUGHT**

*Summarize the relief requested by you in each statement of claim above.*

I'm requesting 10 million for stealing money from  
me, and humiliating me in front of their constituents  
and their friends, and all the students.

Lying to me and escorting me out the school  
when they were later charged by the federal gov.

Do you want a jury trial? Yes ☒ No ☐

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed on 08/06/2017  
(date)

**NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.**

James Nelson

Signature(s) of Plaintiff(s)

## MAIN TOPIC - STEP 1

11/10/13

### FACT

- 1.) Federal & STATE TAX returns are <sup>2011-</sup>2012  
0.00

### REPLY

A.) IRS FAXed 2011-2012 TAX return directly to EVERest inst on 10/19/12.

I (James Nelson) Have no control over documents SENT VIA electronically directly to Everest inst.

I James Nelson told Ms Mayteg, I was audited and it states 8,000 refund, its a mistake, MS mayteg states it came from the IRS!

James Nelson  
11/10/13

MAIN TOPIC - STEP 2

11/10/13

FACT

1. VRAP (Veterans Retraining Assistance Program Benefits) the Benefits are paid directly to veteran FROM VA (veteran administration).

Reply

A. ON 10/19/12 I (James Nelson) stated to MS MAYTEG & MR Greg marsh, VRAP Benefits are not Counted in school, the benefits Are educational benefits and I do not have to pay them back, the checks come directly to me in the mail at my Home address.

James Nelson  
11/10/13

MAIN TOPIC - STEP 3

11/10/13

FACT

1.) THE student Financial Planning worksheet  
Signed 10/19/12 states (other Tuition assistance) -  
Agency fund 14244.00

REPLY

A.) ON 10/19/12 I (James Nelson) again state to  
Ms. Mayteg, that the VRAP is not counted, Ms.  
Mayteg calls Mr. Greg Marsh tells him this, He  
states he knows his job & the Veteran benefits  
Come directly to Everest inst.  
(Ms Mayteg & Mr Marsh) they did not listen to me (James Nelson)

P.S. clearly states 12/5/12 refund Per Quarter.

James Nelson  
11/10/13



MAIN TOPIC - STEP 4

11/10/13

FACT

1.) The student finance Status Form dated 10/19/12 states, Planning, documents, comments & refund amount is 2,166.67 dollars.

Reply

A.) did not receive a refund for the amount stated (up top), ~~but receive~~  
ON the student financial Planning worksheet  
that ON 12 | 12 | 12 a refund check will  
0 | 5 | A  
(OCT) (JAN) (April)

be per Quarter, till this day I did not receive a refund check per quarter

James Nelson  
11/10/13

MAIN TOPIC - STEP 5

11/10/13

FACT

1.) The student statement Regarding Tuition Account & application of Title IV Credit balance Signed and read with current Box checked & Withdraw Box checked.

REPLY

ON 10/19/12 I (James Nelson) & ms. mayteg finished interveiwing and I stated I would like to have all monies to be sent directly to me at my address.

MAIN TOPIC - STEP 6

11/10/13

### FACT

Received in the mail <sup>from</sup> Student finance office  
the financial award Letter ON or around dec-  
17, 2012.

### REPLY

The statement begins Supply store acct. \$15000  
dollars.

Pell - \$2200.00

state (TAP) - \$4000.00

(VRAP) ~~Agency - GI Bill~~ \$14244.00 = (VRAP Benefits)  
are sent directly to me (James Nelson) from  
VA (Veteran administration) as stated by VA.  
~~EVEREST CANNOT COUNT VRAP Benefits "ERROR"~~

THIS IS AN ERROR, the Financial aid award  
Letter appears to be overawarded by \$14244.00  
dollars.

Federal return & state return are total \$0.00.  
Unemployment total (exHarstel 599 Program) \$0.00.

Indeed I (James Nelson) when counting  
facts, I am underawarded, Corrections need  
to be corrected and then determine financial aid.

MAIN TOPIC - STEP 7

11/10/13

FACT

1.) ON 7/15/13 received 2 Letters From MS. Katharina wheeler (student finance rep) FOR additional loans for transportation, school supplies, & rent.

The other Letter states Verify Process delays refund checks & will be worked on & when Finished will receive 1,391.00 refund check.

REPLY

B.) TALKED to MS wheeler ON another date after 7/15/13 in the same month, and was told by MS. wheeler that Verification not Complete she had not <sup>yet</sup> completed the original financial Aid application and she doesn't know what's going ON with the verification process, maybe she will apply corrections later next wk.

MAIN TOPIC - STEP 8

11/10/13

FACT.

ON Feb 25, 2013 Received a refund check  
FROM EVEREST INST, student statement cash receipt  
states check # 001675886 \$(1,361.36)

REPLY

IN FEB 2013 I (James Nelson) TALKED to  
Herb Smith (student Loan Specialist) about  
VRAP Benefits program Problem, He (Herb) states  
let me look at situation, states looks like there  
is a Overaward, So, I (Herb) will go into Computer  
and it seems that we owe you a check (Refund)  
I (James Nelson) did not receive another  
check (refund) since Feb 25, 2013.

8.5  
MAIN TOPIC - STEP - 8.5 11/10/13

FACT  
I (James Nelson) was ENROLLED &  
registered with EVEREST with Financial Aid  
7/15/13 - 10/6/2013

## REPLY

IN AUGUST of 2013 I James Nelson TOLD  
MR greg marsh that I should be registered  
for enrollment with VRAP program & he said  
I cannot let them send you money for this  
period, I stated the VA (Veteran Affairs) stated  
they pay for time in class.

I James Nelson was registered for enroll-  
ment 7/15/13, I would have been paid for  
2 week period or UNTIL I was transferred 8/26/13  
VRAP Benefits are sent directly to me -  
James Nelson not from Everest Inst.

ERROR - IN JUDGMENT of VRAP Program  
again.

I didn't receive a refund check from Financial aid  
& did not receive check FROM VRAP because of  
this problem FROM 7/15/13 - 8/26/13 (TRANSFERRED).

I asked for additional loans  
TO COVER COST OF TRANSPORTATION,  
school supplies, & Rent because my  
Benefits will expire soon. I  
would like to have \$3,900.

James Nelson  
JAMES NELSON

7/15/13

MAIN TOPIC - STEP 9

11/10/13

FACT

1.) Between 8/20/13 - 8/26/13 received official transcript FROM 10/15/2012 - 10/06/2013 all STATEING all grades A, B, C's ~~per~~ Per Quarter. (1st yr Complete, 2nd yr started)

REPLY

B) IN AUGUST OF 2013, TALKED WITH MS. WHEELER again about NO refund check again she's surprised & states, doesn't know why situation exist will have to still work ON Verify Process Problem.

I James Nelson stated if this month you can't resolve this matter, today I like to be transfered out of Everest, I have not failed anything, so, MS Wheeler states only MS Eva Wilcox (Dean of Everest) could transfer me out. MS Wilcox states after trying to resolve the matter, comes to a ~~decision~~ or agreement to Approve my transfer out of Everest because she believes all her employees made the right choices, they have degrees not me I'm a student, then I was separated from Everest same day.



MAIN TOPIC - STEP 10

11/10/13

FACT

I (James Nelson) was ENROLLED FROM 7/15/2013 - 10/6/2013 (ACTIVE) START DATE 10/15/12 VRAP Program states ONLY ENROLL, then other months verify Grades & attendance.

REPLY

MR Greg Marsh did not ENROLL me (James) INTO VRAP program, But I was in class & in school.

(this is an absolute error) MR Marsh stated to me I don't want them to send you all that money. I (James) tried to explain to Greg The VA (veterans affairs) subtract attendance - dates, but if I (James) is attending, then enroll me (James) has nothing to do with cash, its attendance whether its 2 weeks or 3 weeks to 4 weeks.

James Nelson  
11/10/13

MAIN TOPIC - CONCLUSION

11/10/13

MY Feelings

I (James Nelson) Continued to Enroll, register, sign up for Financial aid, EVERY Quarter from 10/15/2012 - 10/06/2013, & scored A, B, C'S, ON EACH report card.

This would Have been my 2nd Year at Everest Inst, I believed in them, Everest let me down, I didn't receive respect, ~~Had~~ With Everest Knowing that my Aent was not Paid all this time and then I (James Nelson) didn't receive a VRAP check & refund in the end, (EVEREST IS NOT veteran friendly)

All because no one would listen to me or Correct any Financial Aid Complaints for 1 yr, EVEREST made me appear to Have been overawarded when I was underawarded and all Everest had to do is resolve, listen & check out situations, I was Hurt, I suffered, But I kept coming to school and did Pass all academic, attendance, & school rules.

I (James Nelson) are Entitled to all refund checks (once IRS return is Corrected to \$0.00) which would, make my Financial aid (maximum allowed, from Pell, TAP, subsidized, unsubsidized, VRAP benefits) \$0.00.

James Nelson

MY CONCLUSION & Point of VIEW 11/10/13

There are so many financial aid  
ERRORS FROM TAX returns to determining  
accurate amount allowed from:

Pell

TAP

Subsidized Loans

Unsubsidized Loans (RAP Benefits not counted)

all FACTS with Paperwork will show that  
this is an ERROR & should be corrected and I  
(James Nelson) has passed all academic &  
attendance FROM 10/15/2012 UNTIL TRANSFERRED  
out of Everest inst, 8/26/2013

This makes me entitled to each refund  
Per Quarter in the amount stated ON ALL  
Everest documents. (with Everest tuition has  
been paid) Per quarter for the ENTIRE year of  
2012 School Year.

Everest has had the whole year to correct  
the error & has not given me a (verify complete) up  
until now till date 11/10/13 (has not happened).

Please Correct & Restore MY Refund checks  
I James Nelson Have earned them (checks,  
Signed, (ENTITLED).  
James Nelson  
11/10/13